

REMARKS

The Office Action and the cited and applied references have been carefully studied. No claim is allowed. Claims 41-48 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

The drawings have been objected to by the Draftsperson under 37 C.F.R. 1.84 or 1.152 for the reasons set forth in PTO-948. It is requested that this objection be held in abeyance until such time that this application is in condition for allowance.

Claims 11-12 and 26 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection is obviated by the cancellation of rejected claims 11-12 and 26 without prejudice. New claims 41-48 which replace canceled claims 11-12 and 26 avoid this indefiniteness rejection altogether.

The "nucleotide sequence capable of hybridizing..." language in new claim 41 is supported in the specification on page 25, lines 5-24. The recitation in new claim 42 of the number of sequence changes is supported in the specification on page 26, lines 7-17. Support for new claims 43 and 47 can be found on page 41, lines 12-24, and page 42, lines 28-31.

Claims 11-12 and 26 have been rejected under 35 U.S.C. §112, first paragraph, because the examiner states that the specification, while being enabling for making and using a GILR protein comprising the amino acid sequence according to SEQ ID NOs:2 and 5, does not reasonably provide enablement for making and using GILR protein derivatives wherein the GILR derivatives are capable of inhibiting apoptosis and stimulating lymphocyte activity. This rejection is obviated by the cancellation of rejected claims 11-12 and 26.

New claims 43 and 47 are only directed to derivatives in which the GILR protein is conjugated or complexed with molecules that facilitate or enhance transport of the GILR protein across the cell membrane. Page 41, line 12 to page 42, line 14 of the specification provide an enabling disclosure for these molecules. Accordingly, it is submitted that the new claims are not subject to the enablement rejection.

Claims 11-12 and 26 have been rejected under 35 U.S.C. §102(b) as being anticipated by Shibamura et al. and Jay et al. This rejection is obviated by the cancellation of claims 11-12 and 26 and its relevance to the new claims is discussed below.

Shibamura and Jay do not disclose a protein which is a GILR protein capable of inhibiting apoptosis and stimulating lymphocyte activity as recited in new claim 41 or a GILR protein with no more than ten sequence changes from the amino

In re Appln. No.: 09/403,861


acid sequence of SEQ ID NO:2. Therefore, Shibamura and Jay cannot anticipate the presently claimed invention.

In view of the above, the present claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By

A handwritten signature in black ink, appearing to be 'Allen C. Yun', is written over a horizontal line. The signature is stylized with a large loop and a crossbar.

ALLEN C. YUN
Registration No. 37,971

ACY:pr
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
F:\S\Ser1\riccardi\pto\amendment for OA 8-8-01.wpd